

103^D CONGRESS
1ST SESSION

S. 1054

To impose sanctions against any foreign person or United States person that assists a foreign country in acquiring a nuclear explosive device or unsafeguarded nuclear material, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27 (legislative day, APRIL 19), 1993

Mr. GLENN (for himself, Mr. PELL, Mr. HELMS, and Mr. D'AMATO) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions against any foreign person or United States person that assists a foreign country in acquiring a nuclear explosive device or unsafeguarded nuclear material, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Omnibus Nuclear
5 Proliferation Control Act of 1993”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

Sec. 3. Definitions.

TITLE I—REPORTING ON NUCLEAR EXPORTS

Sec. 101. Reports of the President.

TITLE II—SANCTIONS FOR NUCLEAR PROLIFERATION

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Sec. 202. Eligibility for assistance.

Sec. 203. Role of international financial institutions.

Sec. 204. Amendment to the International Emergency Economic Powers Act.

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TITLE III—INTERNATIONAL ATOMIC ENERGY AGENCY

Sec. 301. Bilateral and multilateral initiatives.

Sec. 302. IAEA internal reforms.

Sec. 303. Reporting requirement.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act—

3 (1) the term “direct-use material” means nu-
 4 clear material that can be used for the manufacture
 5 of nuclear explosive components without transmuta-
 6 tion or further enrichment, such as plutonium con-
 7 taining less than 80 percent plutonium-238, ura-
 8 nium enriched to 20 percent uranium-235 or more,
 9 uranium-233, and chemical compounds, mixtures of
 10 direct-use materials (including mixed oxide reactor
 11 fuel), and plutonium contained in spent nuclear fuel.

12 (2) the term “goods or technology” means nu-
 13 clear materials and equipment and sensitive nuclear
 14 technology (as such terms are defined in section 4

1 of the Nuclear Non-Proliferation Act of 1978), all
2 export items designated by the President pursuant
3 to section 309(c) of the Nuclear Non-Proliferation
4 Act of 1978, and all technical assistance requiring
5 authorization under section 57b. of the Atomic En-
6 ergy Act of 1954;

7 (3) the term “highly enriched uranium” means
8 uranium enriched to 20 percent or more in the iso-
9 tope U-235;

10 (4) the term “IAEA” means the International
11 Atomic Energy Agency;

12 (5) the term “IAEA safeguards” means the
13 safeguards set forth in an agreement between a
14 country and the International Atomic Energy Agen-
15 cy, as authorized by Article III(A)(5) of the Statute
16 of the International Atomic Energy Agency;

17 (6) the term “near real time material account-
18 ancY” means a method of accounting for the loca-
19 tion, quantity, and disposition of special fissionable
20 material at facilities that store or process such mate-
21 rial, in which verification of peaceful use is continu-
22 ously achieved by means of frequent physical inven-
23 tories and the use of in-process instrumentation;

24 (7) the term “non-nuclear-weapon state” means
25 any country which is not a nuclear-weapon state, as

1 defined by Article IX (3) of the Treaty on the Non-
2 Proliferation of Nuclear Weapons, signed at Wash-
3 ington, London, and Moscow on July 1, 1968;

4 (8) the term “nuclear explosive device” means
5 any device, whether assembled or disassembled, that
6 is designed to release in one microsecond or less an
7 amount of nuclear energy from special nuclear mate-
8 rial that is greater than the amount of energy that
9 would be released from the detonation of one pound
10 of trinitrotoluene (TNT);

11 (9) the term “special fissionable material”, as
12 used in title III of this Act, has the meaning given
13 that term by Article XX(1) of the Statute of the
14 International Atomic Energy Agency, done at the
15 Headquarters of the United Nations on October 26,
16 1956;

17 (10) the term “special nuclear material” has
18 the meaning given that term in section 11 aa. of the
19 Atomic Energy Act of 1954 (42 U.S.C. 2014aa);

20 (11) the term “Treaty” means the Treaty on
21 the Non-Proliferation of Nuclear Weapons, signed at
22 Washington, London, and Moscow on July 1, 1968;
23 and

24 (12) the term “unsafeguarded special nuclear
25 material” means special nuclear material which is

1 held in violation of IAEA safeguards or is not sub-
2 ject to IAEA safeguards, and does not include any
3 quantity of material that could, if it were exported
4 from the United States, be exported under a general
5 license issued by the Nuclear Regulatory Commis-
6 sion.

7 **TITLE I—REPORTING ON** 8 **NUCLEAR EXPORTS**

9 **SEC. 101. REPORTS OF THE PRESIDENT.**

10 Section 601(a) of the Nuclear Non-Proliferation Act
11 of 1978 (22 U.S.C. 3281(a)) is amended—

12 (1) in paragraph (4), by striking “and” after
13 the semicolon;

14 (2) in paragraph (5), by striking the period and
15 inserting “; and”; and

16 (3) by adding after paragraph (5) the following
17 new paragraph:

18 “(6) a description of the implementation of nu-
19 clear export controls in the preceding calendar year,
20 including a summary by type of commodity, by value
21 per type of commodity, and by destination, of—

22 “(A) any transactions for which—

23 “(i) a license was issued for the ex-
24 port or retransfer of any good controlled

1 under section 309(c) of the Nuclear Non-
2 Proliferation Act of 1978;

3 “(ii) a license was issued for the ex-
4 port or retransfer of any good controlled
5 under section 109 b. of the 1954 Act; and

6 “(iii) an authorization was made as
7 required by section 57 b.(2) of the 1954
8 Act to engage, directly or indirectly, in the
9 production of special nuclear material; and
10 “(B) each instance in which—

11 “(i) a sanction has been imposed
12 under section 201(a) of the Omnibus Nu-
13 clear Proliferation Control Act of 1993,
14 section 670(b)(1) of the Foreign Assist-
15 ance Act of 1961, or section 601 or 602 of
16 the Federal Deposit Insurance Corporation
17 Improvement Act of 1991;

18 “(ii) a sale or lease has been denied
19 under section 3(f) of the Arms Export
20 Control Act or a transaction prohibited by
21 reason of any act relating to proliferation
22 of nuclear explosive devices, as described in
23 section 40(d) of that Act;

24 “(iii) a sanction has not been imposed
25 by reason of section 201(c)(2) of the Om-

1 nibus Nuclear Proliferation Control Act of
2 1993 or the imposition of a sanction has
3 been delayed under section 670(b)(4) of
4 the Foreign Assistance Act of 1961; or

5 “ (iv) a waiver of a sanction has been
6 made under—

7 “(I) section 201(f) of the Omni-
8 bus Nuclear Proliferation Control Act
9 of 1993,

10 “(II) section 620E(d), or para-
11 graph (5) or (6) of section 670(b), of
12 the Foreign Assistance Act of 1961,

13 “(III) section 605 of the Federal
14 Deposit Insurance Corporation Im-
15 provement Act of 1991,

16 “(IV) section 40(g) of the Arms
17 Export Control Act with respect to
18 the last sentence of section 40(d) of
19 that Act, or

20 “(V) section 614 of the Foreign
21 Assistance Act of 1961 with respect to
22 section 620E or 670(b)(1) of that Act
23 or section 3(f), or the last sentence of
24 section 40(d), of the Arms Export
25 Control Act.”.

1 **TITLE II—SANCTIONS FOR**
2 **NUCLEAR PROLIFERATION**

3 **SEC. 201. IMPOSITION OF SANCTIONS.**

4 (a) DETERMINATION BY THE PRESIDENT.—

5 (1) IN GENERAL.—Except as provided in sub-
6 section (b)(2), the President shall impose the appli-
7 cable sanctions described in subsection (c) if the
8 President determines that a foreign person or a
9 United States person, on or after the date of enact-
10 ment of this Act, has materially and with requisite
11 knowledge contributed—

12 (A) through the export from the United
13 States of any goods or technology that are sub-
14 ject to the jurisdiction of the United States, or

15 (B) through the export from any other
16 country of any goods or technology that would
17 be, if they were exported from the United
18 States, subject to the jurisdiction of the United
19 States,

20 to the efforts by any individual, group, or non-nu-
21 clear-weapon state to acquire unsafeguarded special
22 nuclear material or to use, develop, produce, stock-
23 pile, or otherwise acquire any nuclear explosive de-
24 vice, whether or not the goods or technology is spe-
25 cifically designed or modified for that purpose.

1 (2) PERSONS AGAINST WHICH SANCTIONS ARE
2 TO BE IMPOSED.—Sanctions shall be imposed pursu-
3 ant to paragraph (1) on—

4 (A) the foreign person or United States
5 person with respect to which the President
6 makes the determination described in that para-
7 graph;

8 (B) any successor entity to that foreign
9 person or United States person;

10 (C) any foreign person or United States
11 person that is a parent or subsidiary of that
12 person if that parent or subsidiary materially
13 and with requisite knowledge assisted in the ac-
14 tivities which were the basis of that determina-
15 tion; and

16 (D) any foreign person or United States
17 person that is an affiliate of that person if that
18 affiliate materially and with requisite knowledge
19 assisted in the activities which were the basis of
20 that determination and if that affiliate is con-
21 trolled in fact by that foreign person.

22 (3) OTHER SANCTIONS AVAILABLE.—The sanc-
23 tions which are required to be imposed for activities
24 described in this subsection are in addition to any

1 other sanction which may be imposed for the same
2 activities under any other provision of law.

3 (4) DEFINITION.—For purposes of this sub-
4 section, the term “requisite knowledge” means situa-
5 tions in which a person “knows”, as “knowing” is
6 defined in section 104 of the Foreign Corrupt Prac-
7 tices Act of 1977 (15 U.S.C. 78dd–2), and includes
8 situations in which a person has reason to know.

9 (b) CONSULTATION WITH AND ACTIONS BY FOREIGN
10 GOVERNMENT OF JURISDICTION.—

11 (1) CONSULTATIONS.—If the President makes a
12 determination described in subsection (a)(1) with re-
13 spect to a foreign person, the Congress urges the
14 President to initiate consultations immediately with
15 the government with primary jurisdiction over that
16 foreign person with respect to the imposition of
17 sanctions pursuant to this section.

18 (2) ACTIONS BY GOVERNMENT OF JURISDIC-
19 TION.—In order to pursue such consultations with
20 that government, the President may delay imposition
21 of sanctions pursuant to this section for up to 90
22 days. Following these consultations, the President
23 shall impose sanctions unless the President deter-
24 mines and certifies to the Congress that that govern-
25 ment has taken specific and effective actions, includ-

1 ing appropriate penalties, to terminate the involve-
2 ment of the foreign person in the activities described
3 in subsection (a)(1). The President may delay the
4 imposition of sanctions for up to an additional 90
5 days if the President determines and certifies to the
6 Congress that that government is in the process of
7 taking the actions described in the preceding sen-
8 tence.

9 (3) REPORT TO CONGRESS.—Not later than 90
10 days after making a determination under subsection
11 (a)(1), the President shall submit to the Committee
12 on Foreign Relations and the Committee on Govern-
13 mental Affairs of the Senate and the Committee on
14 Foreign Affairs of the House of Representatives a
15 report on the status of consultations with the appro-
16 priate government under this subsection, and the
17 basis for any determination under paragraph (2) of
18 this subsection that such government has taken spe-
19 cific corrective actions.

20 (c) SANCTIONS.—

21 (1) DESCRIPTION OF SANCTIONS.—The sanc-
22 tions to be imposed pursuant to subsection (a)(1)
23 are, except as provided in paragraph (2) of this sub-
24 section, that the United States Government shall not
25 procure, or enter into any contract for the procure-

1 ment of, any goods or services from any person de-
2 scribed in subsection (a)(2).

3 (2) EXCEPTIONS.—The President shall not be
4 required to apply or maintain sanctions under this
5 section—

6 (A) in the case of procurement of defense
7 articles or defense services—

8 (i) under existing contracts or sub-
9 contracts, including the exercise of options
10 for production quantities to satisfy require-
11 ments essential to the national security of
12 the United States;

13 (ii) if the President determines that
14 the person or other entity to which the
15 sanctions would otherwise be applied is a
16 sole source supplier of the defense articles
17 or services, that the defense articles or
18 services are essential, and that alternative
19 sources are not readily or reasonably avail-
20 able; or

21 (iii) if the President determines that
22 such articles or services are essential to the
23 national security under defense
24 coproduction agreements;

1 (B) to products or services provided under
2 contracts entered into before the date on which
3 the President publishes his intention to impose
4 the sanctions;

5 (C) to—

6 (i) spare parts which are essential to
7 United States products or production;

8 (ii) component parts, but not finished
9 products, essential to United States prod-
10 ucts or production; or

11 (iii) routine servicing and mainte-
12 nance of products, to the extent that alter-
13 native sources are not readily or reason-
14 ably available;

15 (D) to information and technology essen-
16 tial to United States products or production; or

17 (E) to medical or other humanitarian
18 items.

19 (d) ADVISORY OPINIONS.—(1) Upon the request of
20 any person, the Secretary of State may, after appropriate
21 consultation, issue an advisory opinion in writing to that
22 person as to whether a proposed activity by that person
23 would subject that person to sanctions under this section.

1 (2) Issuance of an advisory opinion under paragraph
2 (1) shall not exempt any person from compliance with the
3 requirements of this Act.

4 (3) For purposes of this subsection, the term “appro-
5 priate consultation” means consultation by the Secretary
6 of State with the Secretary of Defense, the Director of
7 the Arms Control and Disarmament Agency, and the
8 heads of such other Federal agencies as the Secretary of
9 State may determine are necessary.

10 (e) TERMINATION OF SANCTIONS.—The sanctions
11 imposed pursuant to this section shall apply for a period
12 of at least 12 months following the imposition of sanctions
13 and shall cease to apply thereafter only if the President
14 determines and certifies to the Congress that—

15 (1) reliable information indicates that the for-
16 eign person or United States person with respect to
17 which the determination was made under subsection
18 (a)(1) has ceased to aid or abet any individual,
19 group, or non-nuclear-weapon state in its efforts to
20 acquire unsafeguarded special nuclear material or
21 any nuclear explosive device, as described in that
22 subsection; and

23 (2) the President has received reliable assur-
24 ances from the foreign person or United States per-
25 son, as the case may be, that such person will not,

1 in the future, aid or abet any individual, group, or
2 non-nuclear-weapon state in its efforts to acquire
3 unsafeguarded special nuclear material or any nu-
4 clear explosive device, as described in subsection
5 (a)(1).

6 (f) WAIVER.—

7 (1) CRITERION FOR WAIVER.—The President
8 may waive the application of any sanction imposed
9 on any person pursuant to this section, after the end
10 of the 12-month period beginning on the date on
11 which that sanction was imposed on that person, if
12 the President determines and certifies to the Con-
13 gress that the continued imposition of the sanction
14 would have a serious adverse effect on vital United
15 States interests.

16 (2) NOTIFICATION OF AND REPORT TO CON-
17 GRESS.—If the President decides to exercise the
18 waiver authority provided in paragraph (1), the
19 President shall so notify the Congress not less than
20 20 days before the waiver takes effect. Such notifica-
21 tion shall include a report fully articulating the ra-
22 tionale and circumstances which led the President to
23 exercise the waiver authority.

24 (g) DEFINITIONS.—For purposes of this section—

25 (1) the term “foreign person” means—

1 (A) an individual who is not a citizen of
2 the United States or an alien admitted for per-
3 manent residence to the United States; or

4 (B) a corporation, partnership, or other
5 nongovernment entity which is created or orga-
6 nized under the laws of a foreign country or
7 which has its principal place of business outside
8 the United States; and

9 (2) the term “United States person” means—

10 (A) an individual who is a citizen of the
11 United States or an alien admitted for perma-
12 nent residence to the United States; or

13 (B) a corporation, partnership, or other
14 entity which is not a foreign person.

15 **SEC. 202. ELIGIBILITY FOR ASSISTANCE.**

16 (a) AMENDMENTS TO THE ARMS EXPORT CONTROL
17 ACT.—(1) Section 3 of the Arms Export Control Act (22
18 U.S.C. 2753) is amended by adding at the end the follow-
19 ing new subsection:

20 “(f) No sales or leases shall be made under this Act
21 to any country that the President has determined is in
22 material breach of its commitments to the United States
23 under international treaties or agreements concerning the
24 nonproliferation of nuclear explosive devices (as defined in
25 section 3(8) of the Omnibus Nuclear Proliferation Control

1 Act of 1993) and unsafeguarded special nuclear material
2 (as defined in section 3(12) of that Act).”.

3 (2) Section 40 of such Act (22 U.S.C. 2780) is
4 amended—

5 (A) in subsection (d), by adding at the end the
6 following new sentence: “For purposes of this sub-
7 section, such acts shall include any activity that the
8 Secretary determines willfully aids or abets the
9 international proliferation of nuclear explosive de-
10 vices to an individual or group or willfully aids or
11 abets an individual or group in acquiring
12 unsafeguarded special nuclear material.”; and

13 (B) in subsection (l)—

14 (i) in paragraph (2), by striking “and”
15 after the semicolon;

16 (ii) in paragraph (3), by striking the pe-
17 riod at the end and inserting a semicolon; and

18 (iii) by adding at the end the following:

19 “(4) the term ‘nuclear explosive device’ has the
20 meaning given that term in section 3(8) of the Om-
21 nibus Nuclear Proliferation Control Act of 1993;
22 and

23 “(5) the term ‘unsafeguarded special nuclear
24 material’ has the meaning given that term in section

1 3(12) of the Omnibus Nuclear Proliferation Control
2 Act of 1993.”.

3 (b) AMENDMENTS TO THE FOREIGN ASSISTANCE
4 ACT OF 1961.—

5 (1) Section 670(a)(2) of the Foreign Assistance
6 Act of 1961 (22 U.S.C. 2429a(a)(2)) is amended in
7 the first sentence—

8 (A) by inserting “in any fiscal year” after
9 “President”; and

10 (B) by inserting “during that fiscal year”
11 after “certifies in writing”.

12 (2) Notwithstanding any other provision of law,
13 Presidential Determination No. 82–7 of February
14 10, 1982, shall have no force or effect with respect
15 to any grounds for the prohibition of assistance
16 under section 670(a)(1) of such Act arising on or
17 after the date of enactment of this Act.

18 (3) Section 620E(d) of the Foreign Assistance
19 Act of 1961 (22 U.S.C. 2375(d)) is amended to read
20 as follows:

21 “(d) The President may waive the prohibitions of sec-
22 tion 669 of this Act with respect to any grounds for the
23 prohibition of assistance under that section arising before
24 the date of enactment of the Omnibus Nuclear Prolifera-
25 tion Control Act of 1993 to provide assistance to Pakistan

1 if he determines that to do so is in the national interest
2 of the United States.”.

3 **SEC. 203. ROLE OF INTERNATIONAL FINANCIAL INSTITU-**
4 **TIONS.**

5 (a) IN GENERAL.—The Secretary of the Treasury
6 shall instruct the United States executive director to each
7 of the international financial institutions described in sec-
8 tion 701(a) of the International Financial Institutions Act
9 (22 U.S.C. 262d(a)) to use the voice and vote of the
10 United States to oppose any direct or indirect use of the
11 institution’s funds to promote the acquisition of
12 unsafeguarded special nuclear material or the develop-
13 ment, stockpiling, or use of any nuclear explosive device
14 by any non-nuclear-weapon state.

15 (b) DUTIES OF UNITED STATES EXECUTIVE DIREC-
16 TORS.—Section 701(b)(3) of the International Financial
17 Institutions Act (22 U.S.C. 262d(b)(3)) is amended to
18 read as follows:

19 “(3) whether the recipient country—

20 “(A) has been found by the President to be
21 seeking to acquire unsafeguarded special nu-
22 clear material (as defined in section 3(12) of
23 the Omnibus Nuclear Proliferation Control Act
24 of 1993) or a nuclear explosive device (as de-
25 fined in section 3(8) of that Act);

1 “(B) is not a State Party to the Treaty on
2 Non-Proliferation of Nuclear Weapons; or

3 “(C) has detonated a nuclear explosive de-
4 vice; and”.

5 **SEC. 204. AMENDMENT TO THE INTERNATIONAL EMER-**
6 **GENCY ECONOMIC POWERS ACT.**

7 Section 202 of the International Emergency Eco-
8 nomic Powers Act (50 U.S.C. 1701) is amended by adding
9 at the end thereof the following new subsection:

10 “(c) For the purpose of this section, the term ‘any
11 unusual and extraordinary threat’ includes any inter-
12 national event that the President determines may involve
13 the detonation of a nuclear explosive device (as defined
14 in section 3(8) of the Omnibus Nuclear Proliferation Con-
15 trol Act of 1993) or an action or activity that substantially
16 contributes to the likelihood of the proliferation or detona-
17 tion of such devices, including the acquisition by a non-
18 nuclear-weapon state of unsafeguarded special nuclear
19 material (as defined in section 3(12) of that Act).”.

20 **SEC. 205. AMENDMENT TO THE FEDERAL DEPOSIT INSUR-**
21 **ANCE CORPORATION IMPROVEMENT ACT OF**
22 **1991.**

23 The Federal Deposit Insurance Corporation Improve-
24 ment Act of 1991 is amended by adding at the end the
25 following new title:

1 **“TITLE VI—SANCTIONS ON**
2 **FINANCIAL INSTITUTIONS**

3 **“SEC. 601. PRESIDENTIAL DETERMINATION.**

4 “(a) IN GENERAL.—The prohibitions in section 603
5 shall be imposed on a financial institution if the President
6 determines that such financial institution, on or after the
7 date which is 60 days after the date of enactment of this
8 section, has materially and with requisite knowledge con-
9 tributed, through provision of financing or other services,
10 to the efforts by any individual, group, or non-nuclear-
11 weapon state to acquire unsafeguarded special nuclear ma-
12 terial or to use, develop, produce, stockpile, or otherwise
13 acquire any nuclear explosive device, as these standards
14 and terms would be applied under section 201(a) of the
15 Omnibus Nuclear Proliferation Control Act of 1993.

16 “(b) PRESIDENTIAL ORDER.—Whenever the Presi-
17 dent makes a determination under subsection (a) with re-
18 spect to a financial institution, the President shall issue
19 an order specifying a date within 180 days after such de-
20 termination on which the prohibitions in section 603 shall
21 begin to apply to such institution.

22 **“SEC. 602. ADDITIONAL ENTITIES AGAINST WHICH SANC-**
23 **TIONS ARE TO BE IMPOSED.**

24 “The prohibitions described in section 603 shall also
25 be imposed, pursuant to section 601, on—

1 “(1) any successor entity to the financial insti-
2 tution with respect to which the President makes a
3 determination under section 601(a);

4 “(2) any foreign person or United States person
5 that is a parent or subsidiary of that financial insti-
6 tution if that parent or subsidiary materially and
7 with requisite knowledge assisted in the activities
8 which were the basis of that determination; and

9 “(3) any foreign person or United States person
10 that is an affiliate of that financial institution if that
11 affiliate materially and with requisite knowledge as-
12 sisted in the activities which were the basis of such
13 determination and if that affiliate is controlled in
14 fact by that financial institution.

15 **“SEC. 603. PROHIBITIONS.**

16 “The following prohibitions shall apply to a financial
17 institution with respect to which a determination is made
18 under section 601(a) and to the entities described in sec-
19 tion 602:

20 “(1) BAN ON DEALINGS IN GOVERNMENT FI-
21 NANCE.—

22 “(A) DESIGNATION AS PRIMARY DEAL-
23 ER.—Neither the Board of Governors of the
24 Federal Reserve System nor the Federal Re-
25 serve Bank of New York may designate, or per-

1 mit the continuation of any prior designation
2 of, such financial institution or any such entity
3 as a primary dealer in United States Govern-
4 ment debt instruments.

5 “(B) GOVERNMENT FUNDS.—Such finan-
6 cial institution or any such entity shall not
7 serve as agent of the United States Government
8 or serve as repository for United States Govern-
9 ment funds.

10 “(2) RESTRICTIONS ON OPERATIONS.—Such fi-
11 nancial institution or any such entity shall not, di-
12 rectly or indirectly—

13 “(A) commence any line of business in the
14 United States in which it was not engaged as
15 of the date of the determination; or

16 “(B) conduct business from any location in
17 the United States at which it did not conduct
18 business as of the date of the determination.

19 **“SEC. 604. CONDITIONS AND TERMINATION OF SANCTIONS.**

20 “The same requirements for consultation with the
21 foreign government of jurisdiction, where appropriate, and
22 for termination of sanctions shall apply under this title
23 as are provided in subsections (b) and (e), respectively,
24 of section 201 of the Omnibus Nuclear Proliferation Con-
25 trol Act of 1993.

1 **“SEC. 605. WAIVER.**

2 “The President may waive the imposition of any pro-
3 hibition imposed on any financial institution or other en-
4 tity pursuant to section 601 or 602 if the President deter-
5 mines and certifies to the Congress that the imposition
6 of such prohibition would have a serious adverse effect on
7 the safety and soundness of the domestic or international
8 financial system or on domestic or international payments
9 systems.

10 **“SEC. 606. DEFINITIONS.**

11 “As used in this title—

12 “(1) the term ‘financial institution’ includes—

13 “(A) a depository institution, including a
14 branch or agency of a foreign bank;

15 “(B) a securities firm, including a broker
16 or dealer;

17 “(C) an insurance company, including an
18 agency or underwriter;

19 “(D) any other company that provides fi-
20 nancial services; or

21 “(E) any subsidiary of any entity described
22 in subparagraph (A), (B), (C), or (D);

23 “(2) the term ‘requisite knowledge’ means situ-
24 ations in which a person ‘knows’, as ‘knowing’ is de-
25 fined in section 104 of the Foreign Corrupt Prac-
26 tices Act of 1977 (15 U.S.C. 78dd-2), and includes

1 situations in which a person has reason to know;
2 and

3 “(3) the terms ‘foreign person’ and ‘United
4 States person’ have the meanings given those terms
5 in section 201(g) of the Omnibus Nuclear Prolifera-
6 tion Control Act of 1993.”.

7 **SEC. 206. EXPORT-IMPORT BANK OF THE UNITED STATES.**

8 Section 2(b)(4) of the Export-Import Bank Act of
9 1945 (12 U.S.C. 635(b)(4)) is amended in the first sen-
10 tence by inserting after “device” the following: “(as de-
11 fined in section 3(8) of the Omnibus Nuclear Proliferation
12 Control Act of 1993), or that any country has willfully
13 aided or abetted any non-nuclear-weapon state (as defined
14 in section 3(7) of that Act) to acquire any such nuclear
15 explosive device or to acquire unsafeguarded special nu-
16 clear material (as defined in section 3(12) of that Act).”.

17 **SEC. 207. ADDITIONAL AMENDMENTS TO THE FOREIGN AS-**
18 **SISTANCE ACT OF 1961.**

19 (a) **ADDITIONAL SANCTIONS.**—Section 670 of the
20 Foreign Assistance Act of 1961 (22 U.S.C. 2429a(b)) is
21 amended—

22 (1) in subsection (b), by redesignating para-
23 graphs (2), (3), and (4) as paragraphs (4), (5), and
24 (6), respectively; and

1 (2) by amending subsection (b)(1) to read as
2 follows:

3 “(b)(1) Except as provided in paragraphs (4), (5),
4 and (6), in the event that the President determines that
5 any country, after the date of enactment of the Omnibus
6 Nuclear Proliferation Control of 1993—

7 “(A) transfers to a non-nuclear-weapon state a
8 nuclear explosive device,

9 “(B) is a non-nuclear-weapon state and ei-
10 ther—

11 “(i) receives a nuclear explosive device, or

12 “(ii) detonates a nuclear explosive device,

13 “(C) transfers to a non-nuclear-weapon state
14 any design information or component which is deter-
15 mined by the President to be important to, and
16 known by the transferring country to be intended by
17 the recipient state for use in, the development or
18 manufacture of any nuclear explosive device, or

19 “(D) is a non-nuclear-weapon state and has
20 sought and received any design information or com-
21 ponent which is determined by the President to be
22 important to, and intended by the recipient state for
23 use in, the development or manufacture of any nu-
24 clear explosive device,

1 then the President shall forthwith report in writing his
2 determination to the Congress and shall forthwith impose
3 the sanctions described in paragraph (2) against that
4 country.

5 “(2) The sanctions referred to in paragraph (1) are
6 as follows:

7 “(A) The United States Government shall ter-
8minate assistance to that country under this Act, ex-
9cept for humanitarian assistance or food or other
10 agricultural commodities.

11 “(B) The United States Government shall ter-
12minate—

13 “(i) sales to that country under the Arms
14 Export Control Act of any defense articles, de-
15fense services, or design and construction serv-
16ices, and

17 “(ii) licenses for the export to that country
18 of any item on the United States Munitions
19 List.

20 “(C) The United States Government shall ter-
21minate all foreign military financing for that country
22 under the Arms Export Control Act.

23 “(D) The United States Government shall deny
24 to that country any credit, credit guarantees, or
25 other financial assistance by any department, agen-

1 cy, or instrumentality of the United States Govern-
2 ment, except that the sanction of this subparagraph
3 shall not apply—

4 “(i) to any transaction subject to the re-
5 porting requirements of title V of the National
6 Security Act of 1947 (relating to congressional
7 oversight of intelligence activities), or

8 “(ii) to humanitarian assistance.

9 “(E) The United States Government shall op-
10 pose, in accordance with section 701 of the Inter-
11 national Financial Institutions Act (22 U.S.C.
12 262d), the extension of any loan or financial or tech-
13 nical assistance to that country by any international
14 financial institution.

15 “(F) The United States Government shall pro-
16 hibit any United States bank from making any loan
17 or providing any credit to the government of that
18 country, except for loans or credits for the purpose
19 of purchasing food or other agricultural commod-
20 ities.

21 “(G) The President shall prohibit exports to
22 that country of all goods and technology (excluding
23 food and other agricultural commodities), except
24 that such prohibition shall not apply to any trans-
25 action subject to the reporting requirements of title

1 V of the National Security Act of 1947 (relating to
2 congressional oversight of intelligence activities).

3 “(3) As used in this subsection—

4 “(A) the term ‘design information’ means infor-
5 mation that relates to the design of a nuclear explo-
6 sive device and that is not available to the public;
7 and

8 “(B) the term ‘component’ means a component
9 of a nuclear explosive device.”.

10 (b) DEFINITION OF NUCLEAR EXPLOSIVE DEVICE.—

11 Section 644 of the Foreign Assistance Act of 1961 (22
12 U.S.C. 2403) is amended by adding at the end the follow-
13 ing:

14 “(q) ‘Nuclear explosive device’ has the meaning given
15 that term in section 3(8) of the Omnibus Nuclear Pro-
16 liferation Control Act of 1993.”.

17 (c) CONFORMING AMENDMENTS.—Section 670(b) of
18 the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(b))
19 is further amended—

20 (1) in paragraph (4) (as redesignated by sub-
21 section (a)(1) of this section)—

22 (A) in subparagraph (A)—

23 (i) by striking “furnish assistance
24 which would otherwise be prohibited under
25 paragraph (1)” and inserting “delay the

1 imposition of sanctions which would other-
2 wise be required under paragraph (1)(A)
3 or (1)(B)”;

4 (ii) by striking “, before furnishing
5 such assistance, the President” and insert-
6 ing “the President first”; and

7 (iii) by striking “termination of assist-
8 ance to” and inserting “imposition of sanc-
9 tions on”;

10 (B) in subparagraph (B) by striking “(3)”
11 and inserting “(5)”;

12 (C) in subparagraph (E)—

13 (i) by striking “(b)(2)” and inserting
14 “(b)(4)”;

15 (ii) by striking “(b)(3)” and inserting
16 “(b)(5)”;

17 (2) in paragraph (5) (as so redesignated)—

18 (A) by striking “(2)” and inserting “(4)”;

19 (B) by striking “furnish assistance which
20 would otherwise be prohibited under paragraph
21 (1)” and inserting “waive any sanction which
22 would otherwise be required under paragraph
23 (1)(A) or (1)(B)”;

1 (C) by striking “termination of such assist-
2 ance” and inserting “imposition of such sanc-
3 tion”;

4 (3) by redesignating paragraph (6) (as so re-
5 designated) as paragraph (7); and

6 (4) by inserting after paragraph (5) (as so re-
7 designated) the following:

8 “(6) Notwithstanding any other provision of
9 law, the sanctions which are required to be imposed
10 against a country under paragraph (1)(C) or (1)(D)
11 shall not apply if the President determines and cer-
12 tifies in writing to the Committee on Foreign Rela-
13 tions and the Committee on Governmental Affairs of
14 the Senate and the Committee on Foreign Affairs of
15 the House of Representatives that the application of
16 such sanctions against such country would have a
17 serious adverse effect on vital United States inter-
18 ests. The President shall transmit with such certifi-
19 cation a statement setting forth the specific reasons
20 therefor.”.

21 **SEC. 208. REWARD.**

22 Section 36(a) of the State Department Basic Au-
23 thorities Act of 1956 (22 U.S.C. 2708(a)) is amended—

24 (1) by redesignating paragraphs (1) through
25 (3) as subparagraphs (A) through (C), respectively;

1 (2) by inserting “(1)” after “(a)”; and

2 (3) by adding at the end the following:

3 “(2) For purposes of this subsection, the term
4 ‘act of international terrorism’ includes any act sub-
5 stantially contributing to the acquisition of
6 unsafeguarded special nuclear material (as defined
7 in section 3(12) of the Omnibus Nuclear Prolifera-
8 tion Control Act of 1993) or any nuclear explosive
9 device (as defined in section 3(8) of that Act) by an
10 individual or group.”.

11 **SEC. 209. REPORTS.**

12 (a) CONTENT OF ACDA ANNUAL REPORT.—Section
13 52 of the Arms Control and Disarmament Act (22 U.S.C.
14 2592) is amended—

15 (1) by inserting “(a) In General.—” before
16 “The Congress”;

17 (2) by striking “and” at the end of paragraph
18 (4);

19 (3) by striking the period at the end of para-
20 graph (5) and inserting “; and”;

21 (4) by adding after paragraph (5) the following
22 new paragraph:

23 “(6) a section of the report shall deal with any
24 material noncompliance by foreign governments with
25 their commitments to the United States with respect

1 to the prevention of the spread of nuclear explosive
2 devices (as defined in section 3(8) of the Omnibus
3 Nuclear Proliferation Control Act of 1993) by non-
4 nuclear-weapon states (as defined in section 3(7) of
5 that Act) or the acquisition by such states of
6 unsafeguarded special nuclear material (as defined
7 in section 3(12) of that Act), including—

8 “(A) a net assessment of the aggregate
9 military significance of all such violations;

10 “(B) a statement of the compliance policy
11 of the United States with respect to violations
12 of those commitments; and

13 “(C) what actions, if any, the President
14 has taken or proposes to take to bring any na-
15 tion committing such a violation into compli-
16 ance with its commitments.”; and

17 (5) by adding at the end the following new sub-
18 section:

19 “(b) REPORTING CONSECUTIVE NONCOMPLIANCE.—
20 If the President in consecutive reports submitted to the
21 Congress under this section reports that any designated
22 nation is not in full compliance with its nonproliferation
23 commitments to the United States, then the President
24 shall include in the second such report an assessment of

1 what actions are necessary to compensate for such viola-
2 tions.”.

3 (b) REPORTING ON DEMARCHES.—(1)(A) Not later
4 than six months after the date of enactment of this Act,
5 the President shall submit to the congressional committees
6 specified in section 602(c) of the Nuclear Non-Prolifera-
7 tion Act of 1978 an unclassified report that shall state
8 the number of high-level demarches that was issued or re-
9 ceived by the United States with respect to activities relat-
10 ed to the proliferation of nuclear explosive devices.

11 (B) The report described in subparagraph (A) shall
12 cover demarches issued or received during the period be-
13 ginning January 1, 1981, and ending December 31, 1993,
14 and shall identify for each demarche the foreign country
15 issuing or receiving the demarche, as the case may be.

16 (2)(A) Section 601(a) of the Nuclear Non-Prolifera-
17 tion Act of 1978 (22 U.S.C. 3281(a)), as amended by sec-
18 tion 101, is further amended—

19 (i) in paragraph (5), by striking “and” after
20 the semicolon;

21 (ii) in paragraph (6), by striking the period and
22 inserting “; and”; and

23 (iii) by adding after paragraph (6) the following
24 new paragraph:

1 “(7) a statement of the number of all high-level
2 demarches (as defined in section 209(b)(4) of the
3 Omnibus Nuclear Proliferation Control Act of 1993)
4 issued by or received by the United States with re-
5 spect to activities related to the proliferation of nu-
6 clear explosive devices, and shall identify each for-
7 eign country issuing or receiving such a demarche,
8 in the preceding calendar year.”.

9 (B) The amendments made by subparagraph (A)
10 shall take effect on January 1, 1995.

11 (3) It is the sense of the Congress that the Depart-
12 ment of State should, in the course of implementing its
13 reporting responsibilities under section 602(c) of the Nu-
14 clear Non-Proliferation Act of 1978, include a summary
15 of all demarches that the United States has issued or re-
16 ceived from foreign governments with respect to activities
17 which are of significance from the proliferation standpoint.

18 (4) For purposes of this subsection, the term “high-
19 level demarche” means any official communication by one
20 government to another at the presidential, vice presi-
21 dential, ministerial, or ambassadorial level, by written or
22 oral means, intended by the originating government to ex-
23 press—

24 (A) a concern over a past, present, or possible
25 future action or activity of the recipient government,

1 or of a person within the jurisdiction of that govern-
2 ment, contributing to the global spread of
3 unsafeguarded special nuclear material or of nuclear
4 explosive devices;

5 (B) a request for the recipient government to
6 counter such action or activity; or

7 (C) both the concern and request described in
8 subparagraphs (A) and (B).

9 **SEC. 210. TECHNICAL CORRECTION.**

10 Section 133 b. of the Atomic Energy Act of 1954 (42
11 U.S.C. 2160c) is amended by striking “20 kilograms” and
12 inserting “5 kilograms”.

13 **TITLE III—INTERNATIONAL**
14 **ATOMIC ENERGY AGENCY**

15 **SEC. 301. BILATERAL AND MULTILATERAL INITIATIVES.**

16 It is the sense of the Congress that in order to main-
17 tain and enhance international confidence in the effective-
18 ness of IAEA safeguards and in other multilateral under-
19 takings to halt the global proliferation of nuclear explosive
20 devices and associated technology, the United States
21 should seek to negotiate with other nations and groups
22 of nations, including the IAEA Board of Governors and
23 the Nuclear Suppliers Group, to—

24 (1) build international support for the principle
25 that each nuclear supply relationship involving a

1 non-nuclear weapon state must include a commit-
2 ment by such state to the application of full-scope
3 international safeguards;

4 (2) encourage each nuclear-weapon state within
5 the meaning of the Treaty on the Non-Proliferation
6 of Nuclear Weapons to undertake a comprehensive
7 review of its own procedures for declassifying infor-
8 mation relating to the design or production of nu-
9 clear explosive devices and to investigate any meas-
10 ures that would reduce the risk of such information
11 contributing to the proliferation of such devices;

12 (3) encourage the deferral of efforts to separate
13 plutonium or enrich uranium to 20 percent uranium-
14 235 or more;

15 (4) pursue greater financial support for the im-
16 plementation and improvement of safeguards from
17 all IAEA member nations with significant nuclear
18 programs, particularly from those nations that are
19 currently using or planning to use direct-use mate-
20 rial for commercial purposes;

21 (5) arrange for the timely payment of annual fi-
22 nancial contributions by all members of the IAEA,
23 including the United States;

24 (6) discourage international commerce in highly
25 enriched uranium for use in research reactors while

1 encouraging multilateral cooperation to develop and
2 to use low-enriched alternative nuclear fuels;

3 (7) oppose efforts by non-nuclear-weapon states
4 to develop or use unsafeguarded nuclear fuels for
5 purposes of naval propulsion;

6 (8) pursue an international arrangement that
7 would authorize the IAEA to operate surveillance
8 aircraft and would facilitate IAEA access to satellite
9 information for safeguards verification purposes;

10 (9) develop an institutional means for IAEA
11 member nations to share information with the IAEA
12 on possible safeguards violations;

13 (10) require any exporter of a sensitive nuclear
14 facility or sensitive nuclear technology to notify the
15 IAEA prior to export and to require safeguards over
16 that facility or technology, regardless of its destina-
17 tion;

18 (11) seek agreement among the parties to the
19 Treaty to apply IAEA safeguards in perpetuity and
20 to consider the establishment of new limits on the
21 right to withdraw from the Treaty;

22 (12) encourage other nations to adopt legisla-
23 tion that would tighten penalties against companies
24 and individuals that knowingly and materially assist

1 any non-nuclear-weapon state or group to an acquire
2 a nuclear explosive device;

3 (13) encourage the creation under IAEA aus-
4 pices of international repositories for the long-term
5 storage of spent nuclear fuel; and

6 (14) develop measures to ensure the safe and
7 long-term storage under international auspices of
8 special fissionable material recovered as a con-
9 sequence of nuclear disarmament accords.

10 **SEC. 302. REFORMS IN IAEA SAFEGUARDS.**

11 In order to promote the early adoption of reforms in
12 the implementation of the safeguards responsibilities of
13 the IAEA, the Congress urges the President to negotiate
14 with other nations and groups of nations, including the
15 IAEA Board of Governors and the Nuclear Suppliers
16 Group, to—

17 (1) improve the access of the IAEA within non-
18 nuclear weapon states to nuclear facilities that are
19 capable of producing, processing, or fabricating spe-
20 cial fissionable material suitable for use in a nuclear
21 explosive device;

22 (2)(A) facilitate the IAEA's efforts to meet and
23 to maintain its own goals for detecting the diversion
24 of nuclear materials and equipment, giving particu-

1 lar attention to facilities in which there are bulk
2 quantities of plutonium; and

3 (B) if it is not technically feasible for the IAEA
4 to meet those detection goals in a particular facility,
5 require the IAEA to declare publicly that it is un-
6 able to do so;

7 (3) enable the IAEA to issue fines for violations
8 of safeguards procedures, to pay rewards for infor-
9 mation on possible safeguards violations, and to es-
10 tablish a 'hot line' for the reporting of such viola-
11 tions and other illicit uses of direct-use material;

12 (4) examine the feasibility of applying safe-
13 guards at facilities engaged in the manufacture of
14 equipment or material that is especially designed or
15 prepared for the processing, use, or production of
16 special fissionable material or, in the case of non-nu-
17 clear-weapon states, of any nuclear explosive device;

18 (5) examine the feasibility of applying safe-
19 guards over research and development activities and
20 facilities involving sensitive nuclear technology, as
21 defined in section 4(a)(6) of the Nuclear Non-Pro-
22 liferation Act of 1978, or any other technology di-
23 rectly related to the acquisition or production of nu-
24 clear explosive devices;

1 (6) implement special inspections of undeclared
2 nuclear facilities, as provided for under existing safe-
3 guards procedures, and seek authority for the IAEA
4 to conduct short-notice inspections on demand at
5 suspected nuclear sites;

6 (7) expand the scope of safeguards to include
7 tritium, uranium concentrates, and nuclear waste
8 containing significant quantities of special fission-
9 able material, and increase the scope of such safe-
10 guards on heavy water;

11 (8) revise downward the IAEA's official mini-
12 mum amounts of nuclear material ("significant
13 quantity") needed to make a nuclear explosive device
14 and establish these amounts as national rather than
15 facility standards;

16 (9) expand the use of full-time resident IAEA
17 inspectors at sensitive fuel cycle facilities;

18 (10) require the use of near real time material
19 accountancy in the conduct of safeguards at facili-
20 ties that use, produce, or store significant quantities
21 of special fissionable material;

22 (11) develop with other IAEA member nations
23 an agreement on procedures to expedite approvals of
24 visa applications by IAEA inspectors;

1 (12) provide the IAEA the additional funds,
2 technical assistance, and political support necessary
3 to carry out the goals set forth in this subsection;
4 and

5 (13) make public the annual safeguards imple-
6 mentation report of the IAEA, establishing a public
7 registry of commodities in international nuclear com-
8 merce, including dual-use goods, and creating a pub-
9 lic repository of current nuclear trade control laws,
10 agreements, regulations, and enforcement and judi-
11 cial actions by IAEA member nations.

12 **SEC. 303. REPORTING REQUIREMENT.**

13 (a) REPORT REQUIRED.—Not later than 12 months
14 after the date of enactment of this Act, the President shall
15 submit to the congressional committees specified in section
16 602(c) of the Nuclear Non-Proliferation Act of 1978 (27
17 U.S.C.3282(c)) a report describing—

18 (1) the steps he has taken to implement sec-
19 tions 301 and 302, and

20 (2) the progress that has been made and the
21 obstacles that have been encountered in seeking to
22 meet the objectives set forth in sections 301 and
23 302.

24 (b) CONTENTS OF REPORT.—Each report under
25 paragraph (1) shall describe—

1 (1) the bilateral and multilateral initiatives that
2 the President has taken during the period since the
3 enactment of this Act in pursuit of each of the ob-
4 jectives set forth in sections 301 and 302;

5 (2) any obstacles that have been encountered in
6 the pursuit of those initiatives;

7 (3) any additional initiatives that have been
8 proposed by other countries or international organi-
9 zations to strengthen the implementation of IAEA
10 safeguards;

11 (4) all activities of the Federal Government in
12 support of the objectives set forth in sections 301
13 and 302;

14 (5) any recommendations of the President on
15 additional measures to enhance the effectiveness of
16 IAEA safeguards; and

17 (6) any initiatives that the President plans to
18 take in support of each of the objectives set forth in
19 sections 301 and 302.

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